

STATE OF NEW YORK
COURT OF CLAIMS :: SYRACUSE DISTRICT

KAYLA S. VIRGINIA,

Claimant,

VERIFIED CLAIM

Claim No. _____

-vs.-

STATE OF NEW YORK,

Defendant.

KAYLA S. VIRGINIA, the Claimant herein, alleges:

1. The claimant resides at 200 Lower Creek Road, Apt. 2, Ithaca, New York 14850.
2. This claim arose in the Town of Ithaca, County of Tompkins on January 14, 2019.
3. This Court has jurisdiction pursuant to Court of Claims Act Section 9[2] on the ground that the claim relates to torts of a state employee committed on or after January 14, 2019.

COUNT ONE

4. On January 14, 2019, in the Town of Ithaca, a state employee, New York State Police Trooper Jevon C. Pakkala, approached the claimant's parked vehicle, claiming that he smelled burning marijuana.
5. The claimant truthfully denied that she had been smoking marijuana in the vehicle.

6. The claimant truthfully advised Pakkala that she was not under the influence of marijuana.

7. Pakkala then searched the claimant's vehicle, finding no marijuana or paraphernalia.

8. While the search was pending, Pakkala forced the claimant to stand outdoors in subfreezing weather for an extended period of time, causing extreme discomfort and exacerbating her existing physical impairments.

9. During the search, Pakkala claimed that espresso containers in the claimant's vehicle resembled packaging for illicit drugs.

10. Pakkala searched the containers, finding no evidence of illicit drugs.

11. Pakkala either knew, or should have known, that his accusation regarding the odor of marijuana and the contents of packaging were incorrect.

12. Pakkala forced the claimant to engage in field sobriety tests that he either knew, or should have known, were of minimal probative value given the undisputed fact that the claimant had not been drinking and had been forced to stand in the freezing weather for an extended period of time.

13. Pakkala arrested the claimant and caused her confinement for several hours.

14. Pakkala caused to be published to third parties, including the Town of Ithaca Court and the Tompkins County District Attorney, false and defamatory statements including the following: "odor of marijuana," "glassy eyes," "impaired motor coordination," and "I immediately detected the odor of Marijuana emanating from inside the vehicle."

15. As a result of Pakkala's negligence and other tortious conduct, the claimant has sustained additional damage, including stress, discomfort, humiliation, loss of liberty, loss of sleep, anxiety, and damage to her personal and professional reputation.

16. The damage associated with the defamatory statements is no less than \$100,000.

17. The damage associated with loss of liberty are no less than \$100,000.00.

18. The other categories of damages from Pakkala's conduct are continuing.

COUNT TWO – NEGLIGENT HIRING

19. The claimant repeats and restates the allegations of the preceding paragraphs.

20. Pakkala had been employed as an officer with the Ithaca Police Department before the New York State Police hired him.

21. Prior to his hiring by New York State Police, the hiring personnel either knew or with the exercise of reasonable diligence should have known that Pakkala had been inclined to make incorrect statements regarding critical skills essential to law enforcement officers, including the ability to correctly observe and report the bases for traffic stops, statements attributed to suspects, and the condition of suspects.

22. For example, on March 4, 2016 at approximately 12:35 a.m., in the City of Ithaca, Pakkala stopped a vehicle under the pretext that the driver had failed to use his turn signal before leaving the curbside parking space entering his lane of travel.

23. Pakkala made a series of incorrect statements, including misstatements regarding the suspect's condition; his performance of field sobriety tests; and a comment or comments attributed to the suspect.

24. As a result of Pakkala's misstatements, the driver was charged and prosecuted in the City of Ithaca Court for driving while intoxicated.

25. The court dismissed the charges after the prosecution learned of Pakkala's misstatements.

26. Upon information and belief, Pakkala's supervisors at the Ithaca Police Department learned of his misstatements.

27. The defendant State of New York's negligent hiring of Pakkala caused the aforementioned damages to the claimant; and accordingly, the claimant is entitled to money judgment in an amount to be determined at trial.

COUNT THREE -- NEGLIGENT TRAINING, SUPERVISION AND RETENTION

28. The claimant repeats and restates the allegations contained in the preceding paragraphs.

29. Pakkala's supervisors have been negligent in their training and supervision of Pakkala.

30. Failures include failure to train Pakkala to adequately document bases for stops, searches, field sobriety tests; and failure to document statements or conduct attributed to defendants.

31. Reasonable documentation would include videographic and audiographic recording of such stops and interactions.

32. Upon information and belief, from the time of his hiring to the present, Pakkala has engaged in a pattern of behavior that should, with the exercise of reasonable training and supervision, have alerted the defendant to take corrective action.

33. The defendant has failed to take adequate to monitor, correct, or ameliorate such behavior.

34. Upon information and belief, the pattern of behavior includes an aberrant amount of stops or arrests attributed to Pakkala; misstatements regarding the bases for traffic stops and other observations; and unorthodox behavior by Pakkala targeted toward DWI defendants.

35. For example, upon information and belief, in late 2017 or early 2018 Pakkala's supervisor(s) learned that Pakkala had repeatedly entered a particular defendant's name through a search mechanism for a law enforcement database, without a reasonable basis.

36. Upon information and belief, Pakkala's supervisor(s) warned him to stop the unauthorized searches.

37. Upon information and belief, Pakkala continued to run the individual's name through the database after the warning and after the defendant's criminal court case had concluded.

38. Upon information and belief, in or about February 2018 Pakkala's supervisors placed him on administrative leave following the revelations of his continued inappropriate conduct with respect to the database.

39. Upon information and belief, on January 5, 2019, Pakkala and a colleague investigated a one-car personal injury accident in the Town of Enfield, Tompkins County that occurred after the driver swerved to avoid a deer.

40. Upon information and belief, Pakkala and the colleague misreported information attributed to the driver; including her statements and her behavior at the scene.

41. As with the claimant's situation, Pakkala and the colleague forced the driver to stand in the frigid weather for an extended period of time.

42. Pakkala and his colleague knew or should have known that the driver's extended exposure to the elements and her stress level would negatively affect her performance in field sobriety tests.

43. Pakkala and his colleague failed to take reasonable steps to record their interaction with the driver, such as by video recording their interaction with her.

44. As a result of the foregoing misinformation, the State Police arrested and detained the driver, and charged the driver with driving under the influence of drugs.

45. The driver's toxicology report confirmed that she was not under the influence of alcohol or controlled substances.

46. Pakkala's supervisors were negligent by failing to train or supervise Pakkala with a reasonable degree of skill; and have been negligent by continuing retain Pakkala on road patrol following the revelations of the aforementioned behavior.

47. The conduct is continuing.

48. Damages include mental anguish, pain and suffering, and loss of liberty.

49. The damages are continuing.

50. As a result of the defendant's negligence, the claimant is entitled to an award of damages in an amount to be determined at trial.

COUNT FOUR – FALSE IMPRISONMENT

51. The claimant repeats and restates the allegations contained in the preceding paragraphs.

52. On January 14 and 15, 2019, the defendant, through Pakkala, willfully detained the claimant.

53. The detention was unlawful.

54. The detention was without the claimant's consent.
55. As a result of the defendant's conduct, the claimant has been damaged in an amount to be determined at trial.

REQUEST FOR RELIEF

WHEREFORE, the claimant respectfully requests a trial on the allegations stated herein; that the Court issue a judgment awarding damages to claimant and against the defendant in an amount to be determined at trial; and that the Court grant whatever other and further relief the Court deems just, equitable and proper.

Dated: April 2, 2019

MAINES FIRM, PLLC



By: Russell E. Maines
Attorney for Claimant
109 East Seneca Street
Ithaca, New York 14850
Phone: (607) 279-1775
Fax: (888) 476-6608
russ@ithaca.legal

VERIFICATION

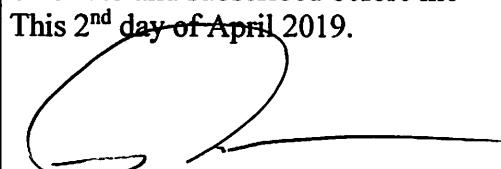
STATE OF NEW YORK) ss:
COUNTY OF TOMPKINS)

KAYLA VIRGINIA, being duly sworn, deposes and says that the allegations contained in the verified claim are true, except as to those allegations stated upon information and belief; and as to those, she believes them to be true.



Kayla S. Virginia

Sworn to and subscribed before me
This 2nd day of April 2019.



Notary Public

Russell Edgar Maines
Notary Public, State of New York
Qualified in Tompkins County
Reg. No. 02MA6064241
Commission Expires November 8, 2021